IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 304 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgment? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

RAMNIKLAL DWARKADAS GANGANI

Versus

HASMUKHBEN CHUNILAL BHATHA

Appearance:

MR TS NANAVATI for the Petitioner.

MR BB NAIK for the Respondent.

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 18/11/2002

ORAL JUDGEMENT

The petitioner is the original defendant of Regular Civil Suit No.1108 of 1994, which is pending in the Court of Civil Judge (Junior Division), Jamnagar. By the impugned order, the trial court has rejected the prayer of the defendant for framing additional issues.

The defendant wanted additional issues to be framed to the effect that the plaintiff's suit is bad for non-joinder of necessary parties or whether the plaintiff has let out the suit premises only for residential purpose and issue regarding standard rent of the premises. The trial court has partly allowed that application and framed additional issue to the following effect :-

" Whether the defendant proves that the agreed rent is excessive? If yes, what should be the standard rent? "

It was argued by Mr.Nanavati, appearing for the original defendant, that since the plaintiff has filed the suit on the ground of change of user, there should be a specific issue as to whether the plaintiff proves that the suit premises is let out only for residential purpose. However, in my view, there is absolutely no necessity to frame such additional issue as there is already an issue framed by the Court to the effect that the premises were not used for the purpose for which they were let out and that since that issue is already framed, the parties can always lead appropriate evidence on that issue for the purpose of finding out whether the premises was used for what purpose and what is the change of user, if any. It is, therefore, not necessary to frame the issue, as suggested by the defendant. I, therefore, do not find any substance in this Civil Revision Application. Hence, the same is rejected. Rule is discharged. Interim relief, if any, shall stand vacated. No costs.

The suit is of 1994 and still, it is not over. Under these circumstances, the trial court is directed to see that the suit is disposed of expeditiously, preferably by 31st October, 2003.

Writ to be sent forthwith.

18th November, 2002 (P.B. Majmudar, J.)

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(apj)